

AMENDED IN SENATE JUNE 21, 2006

AMENDED IN ASSEMBLY MAY 1, 2006

AMENDED IN ASSEMBLY APRIL 18, 2006

AMENDED IN ASSEMBLY MARCH 28, 2006

AMENDED IN ASSEMBLY MARCH 21, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2049

Introduced by Assembly Member Spitzer

(~~Coauthor: Assembly Member Goldberg~~ Coauthors: Assembly Members Daucher, Garcia, Goldberg, Haynes, Huff, La Suer, Nakanishi, Strickland, Tran, and Wyland)

(Coauthors: Senators Battin, Cox, and Dutton)

February 15, 2006

An act to add Section 3053.6 to the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 2049, as amended, Spitzer. Sex offenders: parole.

Existing law generally regulates the parole of sex offenders and the terms and conditions of parole that may be placed on those offenders upon release from prison.

This bill would provide that any person who has been convicted of an offense that requires him or her to register as a sex offender ~~must~~ *would, as determined to be appropriate by the Department of Corrections and Rehabilitation*, as a term of parole be prohibited from contacting or communicating with the victim, or victims or any of

their immediate family members,~~as defined. The bill would also provide that the district attorney of the prosecuting county shall be available for assisting the victim in a determination of the appropriateness of imposing that condition of parole, as specified.~~

~~This bill would further provide that this term of parole may be waived by the parole authority in the interests of justice, as specified.~~

By imposing additional duties on local prosecuting agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3053.6 is added to the Penal Code, to
- 2 read:
- 3 ~~3053.6.—A person who has been convicted of any offense that~~
- 4 ~~requires him or her to register as a sex offender pursuant to~~
- 5 ~~Section 290 shall, in addition to any other conditions, have the~~
- 6 ~~following conditions of parole:~~
- 7 ~~(a) The parolee shall not contact or communicate with the~~
- 8 ~~victim or victims or any victim's immediate family members.~~
- 9 ~~This includes visiting or frequenting the place of their residence,~~
- 10 ~~work, or crime scene, whether or not that person is present.~~
- 11 ~~(b) The parole authority may waive the requirements specified~~
- 12 ~~in subdivision (a) in the interests of justice with the consent of~~
- 13 ~~the victim, or the victim's parents or legal guardian if the victim~~
- 14 ~~is a minor, and shall document the reason for doing so in the~~
- 15 ~~parolee's file. In the event that the victim, or the victim's parents~~
- 16 ~~or legal guardian if the victim is a minor, agrees to waive the~~
- 17 ~~requirements specified in subdivision (a), but any of the victim's~~
- 18 ~~immediate family does not, the parole authority may permit~~

1 ~~contact with the victim, but not the immediate family members~~
2 ~~who refused to consent.~~

3 ~~(e) For the purpose of this section:~~

4 ~~(1) “Immediate family members” shall mean the spouse,~~
5 ~~domestic partner, children, siblings, legal guardian, or parents of~~
6 ~~the victim.~~

7 ~~(2) “Contact or communication” includes personal, telephonic,~~
8 ~~electronic, or written contact.~~

9 3053.6. (a) *Where a person committed to prison for a sex*
10 *crime for which registration is required pursuant to Section 290*
11 *is to be released on parole, the department, in an appropriate*
12 *case, shall make an order that the parolee not contact or*
13 *communicate with the victim of the crime, or any of the victim’s*
14 *family members. In determining whether to make the order, the*
15 *department shall consider the facts of the offense and the*
16 *background of the parolee.*

17 (b) *Where a victim, or an immediate family member of a*
18 *victim, requests that the parolee not contact him or her, the order*
19 *shall be made. An immediate family member’s request that the*
20 *parolee not contact that person shall be granted even where the*
21 *direct victim allows contact.*

22 (c) *Where the victim is a minor, the order that the parolee*
23 *shall not contact or communicate with the victim shall be made*
24 *where requested by the victim, or the parents or guardian of the*
25 *victim. In the event of a dispute between the parents or guardians*
26 *of a minor victim concerning whether a no-contact and*
27 *no-communication order should be made, the board shall hold a*
28 *hearing to resolve the dispute. The victim, or the parents or*
29 *guardians, shall not be required to attend the hearing. The*
30 *victim, or the parents of the victim, may submit a written*
31 *statement to the board concerning the issue of whether a*
32 *no-contact or no-communication order shall be made.*

33 (d) *The district attorney of the county that prosecuted the*
34 *defendant for the sex crime for which the parolee was committed*
35 *to prison shall be available to facilitate and assist the victim, or*
36 *victim’s family member, in stating to the department whether or*
37 *not the order that the parolee not contact or communicate with*
38 *him or her shall be made.*

39 SEC. 2. *If the Commission on State Mandates determines*
40 *that this act contains costs mandated by the state, reimbursement*

1 *to local agencies and school districts for those costs shall be*
2 *made pursuant to Part 7 (commencing with Section 17500) of*
3 *Division 4 of Title 2 of the Government Code.*

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